

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

2015 SITTING

2015-P-0398

COMMONWEALTH OF MASSACHUSETTS,

APPELLEE,

v.

PIERCE A. MARTIN,

APPELLANT.

ON APPEAL FROM A RULING OF
THE QUINCY DISTRICT COURT

DEFENDANT'S BRIEF AND RECORD APPENDIX

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ISSUE PRESENTED

THE DEFENDANT'S GUILTY PLEA WAS DEEMED INVALID AB INITIO DUE TO EGREGIOUS GOVERNMENTAL MISCONDUCT. THEREAFTER, THE JUDGE DENIED THE DEFENDANT'S MOTION TO REFUND THE VICTIM WITNESS ASSESSMENT, PROBATION SUPERVISION FEE AND VICTIM SERVICES SURCHARGE PAID PRIOR TO THE ENTRY OF THE COMMONWEALTH'S NOLLE PROSEQUI. DID THE JUDGE ERR WHEN HE REFUSED TO RETURN THE DEFENDANT TO THE STATUS QUO ANTE?

STATEMENT OF PROCEEDINGS

On October 19, 2010, the defendant was arraigned in Quincy District Court and charged with 'possession of marijuana with the intent to distribute,' G.L. c. 94C, § 32C(b), 'in a school zone' G.L. c. 94C, § 32J, 'unlicensed operation of a motor vehicle,' G.L. c. 90, § 10, as well as 'failure to stop,' G.L. c. 89, § 9, and 'failure to wear a seat belt,' G.L. c. 90, § 13A. (R.A. 1.)¹

On October 13, 2011, the substantive offense was reduced to 'simple possession of marijuana, second subsequent,' G.L. c. 94C, § 34; the 'school zone,' was dismissed. (R.A. 3.) The defendant pleaded guilty and was placed on probation until October 9, 2012; the unlicensed operation charge was guilty filed; the civil infractions were filed after a responsible finding.

¹ The Record Appendix appears post and is cited as "(R.A. [page])".

(R.A. 3 & 7.)

On January 4, 2012, a non-bailable, violation-of-probation warrant issued. (R.A. 5.) On August 28, 2012, the defendant appeared in court and stipulated to a violation of probation; the probation was reinstated and extended for another year. (Id.)

On October 3, 2012, the defendant filed a motion to withdraw his guilty plea. (Id.) On October 31, 2012, the court allowed the motion. (R.A. 6.) The Commonwealth entered a *nolle prosequi*. (Id.)

On November 21, 2012 and July 22, 2013, the defendant filed motions for the return of property. (Id.) On August 29, 2013, the motions were allowed in part, and denied in part. (Id.; T. 3-5.)² On September 9, 2013, the defendant filed a notice of appeal. (R.A. 25.)

STATEMENT OF FACTS

On October 13, 2011, the defendant pleaded guilty to 'possession of marijuana, second subsequent,' G.L. c. 94C, § 34. (R.A. 3.) The defendant was placed on supervised probation for one year with the conditions

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The transcript appears post in one, consecutively-paginated volume and is cited as "(T. [page]: [line].)".

that he abstain from drugs and submit to random testing. (Id.) The court assessed a monthly, probation fee, as well as a victim witness assessment.³ (R.A. 2-3.) The 'operation without a license,' G.L. c. 90, § 10, was placed on file until October 13, 2012, with a finding of guilty. (R.A. 3 & 7.)

Two and one-half months later, on January 4, 2012, the court issued a violation-of-probation warrant. (R.A. 5.) The defendant remained absent without leave (AWOL) and a wanted man for eight and one-half months; on August 28, 2012, he appeared in court, removed the warrant, and stipulated to a violation of probation. (Id.) His probation was reinstated and extended for another year. (Id.) The court imposed additional conditions: remain alcohol free; and, enter and complete the Office of Community Corrections (OCC)

3

Probation Supervision Fee	G.L. c. 276, § 87A, ¶ 2	\$60.00 per month
Victim Services Surcharge	G.L. c. 276, § 87A, ¶ 6	\$ 5.00 per month
Victim Witness Assessment	G.L. c. 258B, § 8	\$50.00 one time

program with Level III supervision for 90 days.⁴ (Id.)

Shortly thereafter, on October 3, 2012, the defendant filed a Rule 30 motion to withdraw his guilty plea because the certificate of drug analysis bore the signature of the rogue chemist, Annie Dookhan. (R.A. 5 & 8-14.) The Commonwealth did not object to the motion. (R.A. 6 & 8.) On October 31, 2012, the defendant's plea was vacated and the Commonwealth filed a *nolle prosequi*. (R.A. 6 & 15.)

Subsequently, on November 21, 2012 and July 22, 2013, the defendant filed motions for the return of his property.⁵ (R.A. 6 & 16-22.) The defendant requested

⁴ "The Office of Community Corrections (OCC) is the intermediate sanction department of the Massachusetts Probation Service." <http://mass.gov/courts/court-info/probation/office-of-community-corrections-gen.html>. Level III entails house arrest by the use of a Global Positioning System (GPS) Monitoring bracelet. <http://mass.gov/courts/court-info/probation/electronic-monitoring-program.html>.

⁵ The defendant requested, *inter alia*, \$109.00 held in a police evidence locker. (R.A. 16 & 17.) The judge properly returned this sum to the defendant. (R.A. 5; T. 4:25-5:1.) See Commonwealth v. Sacco, 401 Mass. 204, 205 (1987); Commonwealth v. Frederick, (Appeals Court - Unpublished, Rule 1:28 Decision) (No. 11-P-1776) (July 6, 2012); Rule 61 of the Rules of Superior Court; Mass. R. Crim. P. 13. During the hearing, this sum was mistakenly discussed in terms of a 'drug offense fine,' G.L. c. 280, §§ 6B & 6C. (T. 4:6-25.) No such fine was assessed to the defendant at the time of his sentencing.

the refund of \$838.83 in fees paid.⁶ (R.A. 16.) On August 23, 2013, the court conducted a hearing. (R.A. 6.) Counsel for the defendant argued that "it's an equity argument that the supervision fees were the result of a plea that the Court determined was in violation of Mr. Martin's constitutional rights." (T. 3:13-16.) The Commonwealth forwarded no argument or objection. (T. 3-5.) The judge denied the motion to

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Statute	Amount	Frequency	Total
Probation Supervision Fee G.L. c. 276, § 87A, ¶ 2	\$60.00	12	\$720.00
Victim Services Surcharge G.L. c. 276, § 87A, ¶ 6	\$ 5.00	12	\$ 60.00
Victim Witness Assessment G.L. c. 258B, § 8	\$ 50.00	1	\$ 50.00
Overpayment			\$ 8.83
TOTAL			\$ 838.83

return either the probation fee or the victim witness assessment. (T. 5: 2; R.A. 6.) The judge articulated no rationale but stated: "I don't know how you're going to get your probation day [sic] fee back. It's in the general reserve now." (T. 3: 8-12.)

ARGUMENT

Standard of Review. Questions of law are subject to *de novo* review. Commonwealth v. Humberto H., 466 Mass. 562, 566 (2013); Commonwealth v. Cotto, SJCL 11761 (Mass. April 8, 2015). A judge's legal conclusions are subject to *de novo* review. Robert & Ardis James Foundation v. Meyers, 87 Mass. App. Ct. 85, 94 (2015).

Withdrawal of the Plea. In the present case, the defendant's conviction was vacated after a Mass. R. Crim. P. 30 motion to withdraw a plea was allowed without objection from the Commonwealth. (R.A. 6 & 8.) Thereafter, the Commonwealth entered a *nolle prosequi* because the certificate of drug analysis which supported the defendant's conviction bore the signature of the rogue chemist, Annie Dookhan. (R.A. 13 & 15.) Dookhan's "insidious" misconduct "belie[d] reconstruction, [and was] a lapse of systematic magnitude in the criminal justice system." Commonwealth v. Scott, 467 Mass. 336, 542 (2014). This

certificate "entitled" the defendant "to a conclusive presumption that egregious government misconduct occurred in . . . [his] case." Id. In sum, the defendant's guilty plea was vacated "on the ground that government misconduct rendered the plea involuntary. . . ." Id. at 351; see Boykin v. Alabama, 395 U.S. 238 (1969). The Commonwealth never proved beyond a reasonable doubt that the defendant committed the crime alleged due to prosecutorial misconduct.⁷ As the conviction was vacated, the defendant should be presumed innocent for all purposes.⁸

I. WHEN A CONVICTION IS REVERSED, THE VICTIM WITNESS ASSESSMENT TIED TO THAT CONVICTION STANDS VACATED.

Victim Witness Assessment. A victim witness assessment must be tied to a valid conviction. "The court shall impose an assessment of \$50 against any person . . . who is convicted of a misdemeanor. . . ."

7

The due process clauses of the Fifth and Fourteenth Amendments "[protect] the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged." In re Winship, 397 U.S. 358, 364 (1970).

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"The fact that the presumption of innocence is recognized as a presumption of law and is characterized by civilians as a *presumptio juris*, demonstrates that it is evidence in favor of the accused." Coffin v. United States, 156 U.S. 432, 460 (1895).

G.L. c. 258B, § 8. The criminal docket reflects that the court tied to the marijuana conviction a \$50 assessment, id., for costs associated with victim and witness assistance, G.L. c. 258B, § 3. (R.A. 3.) The purpose of "the levy" is to fund the task of "affording basic and fundamental rights in the criminal justice system to the victims and witnesses of crimes."

Commonwealth v. Zawatsky, 41 Mass. App. Ct. 392, 401 (1996).

In Zawatsky, the Appeals Court held that the victim witness assessment, G.L. c. 258B, § 8, stood vacated when the underlying conviction supporting the assessment was reversed upon appeal. Commonwealth v. Zawatsky, supra. Similarly, when the defendant's plea was withdrawn and the *nolle prosequi* entered, the \$50 victim witness assessment was also necessarily vacated. Therefore, the judge erred in his refusal to refund to the defendant the victim witness assessment.⁹

9

The motor vehicle offense, G.L. c. 90, § 10 (operation without a license), was placed on file, G.L. c. 218, § 38, until October 13, 2012. (R.A. 7.) After the named date, neither party could move for sentencing. Commonwealth v. Simmons, 448 Mass. 687, 692-699 (2007). The hearing for the return of the assessment occurred in August 2013. (R.A. 6.) At that time, the window for sentencing had closed. Therefore, the judge could not redistribute the victim witness assessment to the motor vehicle offense. See

II. WHEN A GUILTY PLEA IS INVALID AB INITIO DUE TO EGREGIOUS GOVERNMENTAL MISCONDUCT, EQUITABLE PRINCIPLES AND FUNDAMENTAL FAIRNESS REQUIRE A REFUND OF THE PROBATION SUPERVISION FEE AND VICTIM SERVICES SURCHARGE SO AS TO RETURN THE DEFENDANT TO THE STATUS QUO ANTE.

Equity. "[E]quitable principles are applied to return an aggrieved party to the *status quo*." Demoulas v. Demoulas, 428 Mass. 555, 590 (1998); Yorke v. Taylor, 332 Mass. 368 (1955).¹⁰ At the hearing, defense counsel argued: "[I]t's an equity argument that the supervision fees were the result of a plea that the Court determined was in violation of [the defendant's] constitutional rights [Commonwealth v. Scott, supra]." (T. 3:13-16.) Fairness is the touchstone of due process. St. Germaine v. Pendergast, 416 Mass. 698, 704 (1993). The Fifth and Fourteenth Amendments of the United States Constitution, as well as art. 12 of the Massachusetts Declaration of Rights, prohibit the taking of property without due process of law. Equitable principles and fundamental fairness

Commonwealth v. Zawatsky, supra at 401.

¹⁰

"In this Commonwealth one who has been induced to enter into a contract in reliance upon a false though innocent representation of a material fact susceptible of knowledge which was made as of a party's own knowledge and was stated as a fact and not as a matter of opinion is entitled to rescission." Yorke v. Taylor, supra at 371 & 374.

require a full restitution of probation fees levied pursuant to a conviction predicated on a plea that was *ab initio* involuntary due to the defendant's reliance on a certificate of drug analysis corrupted by the Commonwealth's egregious misconduct. For all purposes, the defendant should be presumed innocent, Coffin v. United States, supra, because the Commonwealth never proved the charge, In re Winship, supra. In refusing to restore the defendant to the *status quo ante*, the judge erred.

Probation Fees. Under G.L. c. 276, § 87A, the "[c]ourt shall assess upon every person placed on supervised probation . . . a monthly supervision fee . . . in the amount of \$60 per month. . . ." Id. at ¶ 2. Further, the "Court shall also assess upon every person placed on supervised probation . . . a monthly probationers' victim services surcharge . . . in the amount of \$5 per month." Id. at ¶ 6. The defendant was ordered to pay \$65 per month for the combined probation supervision fee and victim services surcharge. (R.A. 2.) In total, the defendant paid \$788.83 in probation fees. See supra note 6. (R.A. 16-21.)

Supervision Fee. For the defendant, probation was

a punishment. "[R]ecognized goals of probation include punishment, deterrence, and retribution." Commonwealth v. Power, 420 Mass. 410, 415 (1995) (citing United States v. Tonry, 605 F.2d 144, 148 [5th Cir. 1979].) "Although conditions of probation signed by defendants are often referred to as 'contracts' . . . the fact remains that such instruments are not premised upon mutuality of agreement or obligation." Commonwealth v. MacDonald, 50 Mass. App. Ct. 220, 223 (2000). From the moment the involuntary plea of guilty entered, the defendant's "liberty interest" was placed on a "conditional" status and his footsteps dogged by the specter of incarceration--a set of circumstances equating punishment. Commonwealth v. Wilcox, 446 Mass. 61, 64-65 (2006).¹¹

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"A probationer has only a conditional liberty interest. See Commonwealth v. Olsen, 405 Mass. 491, 493 (1989); G.L. c. 279, § 3. He or she must comply with 'such conditions' as the sentencing judge "deems proper," G.L. c. 276, § 87, regularly report to a probation officer or otherwise submit to court supervision, see Commonwealth v. Taylor, 428 Mass. 623, 626 (1999), and pay a monthly 'probation fee,' G.L. c. 276, § 87A. A breach of a condition of probation constitutes a violation. Rubera v. Commonwealth, 371 Mass. 177, 180-181 (1976). If the probation officer receives information tending to show that the defendant has breached, the officer may 'surrender' the probationer to the court. Commonwealth v. Durling, [407 Mass. 108, 111 (1990)]. Inherent in the court's power to grant probation is the power to revoke it.

A "probationer [does not] have a right to be free from conditions that severely restrain his freedom of action. The judge may . . . view probation as a substitute for imprisonment and formulate conditions calculated to ensure that the probation department further the purposes of criminal law." United States v. Tonry, supra at 148. As a condition of probation, the defendant was required to remain drug and alcohol free, submit to urine screening, as well as wear a GPS monitoring device. (R.A. 2, 3 & 5). The defendant did not volunteer for sobriety or request a GPS tracking device. These restrictions on his liberty and the attendant probation fees were a punishment--the consequence of a plea which was *ab initio* invalid due to the Commonwealth's misconduct.

Once the underlying conviction was vacated, equitable principles and fundamental fairness entitled the defendant to be restored to the *status quo ante*. The judge erred in denying the defendant's request to

Jake J. v. Commonwealth, 433 Mass. 70, 77-78 (2000). The judge determines whether a violation has in fact occurred and, in the court's discretion, whether the probationer's conduct warrants imposition of the original suspended sentence, Commonwealth v. Holmgren, 421 Mass. 224, 226, 228 (1995); Commonwealth v. McGovern, 183 Mass. 238, 240-241 (1903), or in the case of straight probation, the imposition of a sentence." Commonwealth v. Wilcox, supra.

refund the entire \$788.83 in probation supervision fees paid over the course of twelve months.

\$480 paid while AWOL. Granted, the "primary goals of a probationary sentence are rehabilitation of the probationer and protection of the public."

Commonwealth v. Power, supra at 414. "[T]he intent of § 87A is to defray the costs associated with the provision of services to probationers, as an alternative to imprisonment." John Doe, Sex Offender Registry Bd. No. 10800 v. Sex Offender Registry Bd., 459 Mass. 603, 620 (2011). In the case at bar, the defendant received few, if any, rehabilitative or supervisory services during his year on probation. For eight and one-half months between January and August 2012, the defendant was a wanted man with an outstanding violation-of-probation warrant for his arrest. (R.A. 5.) Nevertheless, the defendant paid \$480 in supervision fees for the eight months, thus subsidizing the general operating costs of the probation department without receiving any rehabilitative or supervisory services in return.¹²

¹²

Because the defendant derived no benefits or services from the probation department for eight months, his fact pattern is distinguished from cases in other jurisdictions where courts denied the return of

Under these circumstances, the probation fee was administered as a punishment or fine because failure to pay may have triggered a probation surrender and incarceration. Commonwealth v. Wilcox, supra.

"[T]here is a general prohibition against the imposition of costs as a penalty for a crime."

Commonwealth v. Zawatsky, supra at 400; Commonwealth v. Scagliotti, 373 Mass. 626, 629 (1977); G.L. c. 280, § 6 ("[c]osts shall not be imposed . . . as a penalty for a crime"). While the defendant was AWOL, the probation fee accrued and was administered as the cost or penalty

supervision fees predicated upon the state's *quantum meruit*, or unjust enrichment, argument. In People v. Noel, 134 P.3d 484 (Colo. App. Div.5 2005), the defendant had successfully completed the probationary period before her appeal was vacated; thus, the court held that Noel could not "disgorge any benefit she derived" from probation so as to place both herself and the state in the *status quo ante*. Id. at 487. In Brantley v. State, 769 N.E.2d 676 (Ind. Ct. App. 2002), the court denied a refund of fees paid to a community corrections center prior to the reversal of a conviction because the defendant had received supervisory services and rehabilitative benefit. Id. at 680. In State v. Walker, 887 P.2d 53 (Idaho Ct. App. 1994), the court held that the defendant was not entitled to reimbursement because he had received the beneficial effect of supervised probation while the case was on appeal. Id. at 57. In State v. Parker, 872 P. 2d 1041 (Utah Ct. App. 1994) (Davis, J., majority opinion on fees), the court denied a motion for the return of fees paid to a secure, residential facility because the defendant would have been unjustly enriched with rehabilitative services received prior to the reversal of his conviction. Id. at 1049.

for a crime because the probation department provided no rehabilitative or supervisory services to the defendant. Therefore, the judge erred in not refunding the \$480 fee paid for those eight months.

Victim Services Surcharge. The "victim services surcharge," G.L. c. 276, § 87A, ¶ 6, is not associated with any rehabilitative purpose of probation. The defendant paid \$60 towards this surcharge. See supra note 6. This surcharge should be treated as analogous to the victim witness assessment, G.L. c. 258B, § 8. Commonwealth v. Zawatsky, supra. When the conviction was vacated, there existed no nexus for the defendant to contribute to a fund to support 'victim services.' The judge erred when he did not refund the \$60 surcharge to the defendant.

III. ASSESSMENTS, FEES AND SURCHARGES TRANSMITTED TO THE GENERAL FUND ARE RECOVERABLE UPON JUDICIAL ORDER.

Recovery from the General Fund. The judge erred in assuming that a refund was not possible because the money collected from the defendant had been transmitted to the General Fund. (T. 3: 8-12 ["I don't know how you're going to get your probation day (sic) fee back. It's in the general reserve now."].) The \$783.83 applied towards the probation service fee and the

victim services surcharge was transmitted to the state treasurer for deposit into the General Fund. G.L. c. 276, § 87A, ¶ 9. The \$50 victim witness assessment was also deposited into the General Fund. G.L. c. 258B, § 9 (G.L. c. 10, § 49 [Victim and Witness Assistance Fund], repealed by 2003, c. 26, § 45, effective June 30, 2003, applicable as provided by § 710). In total, \$838.83 of the defendant's money had been deposited into the General Fund. See supra note 6.

The judge possessed the authority to order the clerk to reimburse this sum to the defendant.¹³ Once an order to refund issued, the clerk of the district court would have submitted a voucher to the Executive Office of the Trial Court. G.L. c. 29, § 20. That agency would have then submitted the voucher to the Office of the Comptroller. G.L. c. 7A, § 3. Eventually, the money would have been redeposited into the account of the Quincy District Court for disbursement to the defendant pursuant to judicial

¹³

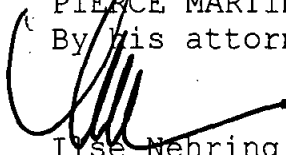
The trial court has the authority to rule on motions concerning the disposition of fees when a conviction has been vacated. Commonwealth v. Zawatsky, supra at 401. Cooper v. Gordon, 389 So.2d 318, 319 (Fla. Dist. Ct. App. 1980) (a district court had jurisdiction over the defendant's motion for a refund of fines, restitution, and probation-cost payment after a conviction was vacated).

order.

CONCLUSION

FOR THE FOREGOING REASONS, the defendant respectfully requests that this Honorable Court vacate both the victim witness assessment, probation supervision fee, as well as victim services surcharge, and remand the matter to the Quincy District Court for action consistent with that decision.


Respectfully Submitted,
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CERTIFICATE OF COMPLIANCE

I, Ilse Nehring, attorney for the defendant,
PIERCE A. MARTIN, hereby certify that the attached
brief complies with the rules of court that pertain to
the filing of briefs, including but not limited to,
Mass. R. App. P. 16(a)(6), 16(e), 16(f), 16(h), 18 and
20.

5.1.2015 

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The Official Website of the Massachusetts Judicial Branch

Massachusetts Court System[Massachusetts Court System](#) > [Court Information](#) > [Office of the Commissioner of Probation](#) > [Office of Community Corrections](#)**Office of Community Corrections**

The Office of Community Corrections (OCC) is the intermediate sanction department of the Massachusetts Probation Service. The mission of the OCC is the establishment of intermediate sanctions which offer a continuum of sanctions and services for probation, parole, sheriffs and the Department of Correction. This interagency and community collaboration supports public safety. On these pages you will find information about the two major initiatives of the OCC, the Trial Court Community Service Program (CSP) and the statewide network of Community Corrections Centers (CCC). The CSP develops community service projects, monitors participants at project sites, tracks participant work hours, and makes reports of participant progress to the courts via the probation department. The CCCs facilitate intensive supervision by probation, parole and sheriff's departments through integrated services and sanctions including substance abuse treatment, educational opportunities, job development, life skills training, drug and alcohol testing, community service, day reporting and electronic monitoring. For more information see the links below.

Related Links

- [Overview of the Office of Community Corrections](#)
- [5 Ws of Enhanced Supervision for Probation Officers](#)
- [Community Correction Centers](#)
- [Trial Court Community Service Program](#)
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The Official Website of the Massachusetts Judicial Branch

Massachusetts Court System

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Electronic Monitoring Program

What is the Electronic Monitoring Program?

The Massachusetts Probation Service's Electronic Monitoring Program was first established in April 2001 as an alternative to incarceration and to provide structure, control, and accountability of probationers who were sentenced to house arrest by a judge. The Program also provides an extra layer of supervision with the goal of enhancing public safety in the community.

The Probation Officer is responsible for the supervision of their assigned probationers who are placed on the Massachusetts Probation Service Electronic Monitoring Program.

There are two types of electronic bracelets: the Radio Frequency Bracelet, which is used as a form of house arrest, and the GPS Bracelet, used to track an offender's whereabouts in real time.

How GPS Monitoring Bracelet Works:

The GPS consists of 24 satellites orbiting the earth. It determines the location of offenders wearing the receiver 24 hours a day, seven days a week.

If an offender enters an area where they have been restricted from, an alert will go off. A Probation employee will contact the offender on a specialized GPS cell to determine why they entered and to instruct them to leave.

How the Radio Frequency Bracelet Works:

If an offender on the Radio Frequency bracelet leaves his or her home at a time not authorized by a judge, an alert (auditory or visual) indicates that the probationer is out of range. The ELMO Command Center then responds immediately. When an RF bracelet is tampered with (banged, removed or hit), a sensor indicates a violation and probation is alerted. If the Probationer has absconded, a warrant is issued for their arrest.

Electronic Monitoring Program Operations:

The Electronic Monitoring Program headquarters and daily operations are managed by the Programs Division of the Massachusetts Probation Service. The program's central office is located in Clinton and is open 24 hours a day, seven days a week, 365 days a year. The Electronic Monitoring Program is staffed by a team of Probation employees. Probation Officers at various courts throughout the Commonwealth are responsible for hooking up the electronic bracelet on the probationer.

In the event an offender tampers with their bracelet or absconds, the monitoring center notifies the court and Chief Probation Officer. An arrest warrant is then issued for the offender. This warrant protocol is applicable for both systems. There are 479 offenders on the Radio Frequency bracelet and 2,391 offenders actively being tracked by GPS system for a combined total of 2,870 offenders statewide on a daily basis.

Monitoring Center

Main Number: 978-365-2970

Toll-Free: 866-490-1166

Hours of Operation: 24 hours a day, 7 days a week, 365 days a year.

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**G.L.c. 7A, § 3. Examination of accounts and demands;
overdue debts; certificates of amounts due**

Section 3. The comptroller shall examine all accounts and demands against the commonwealth excepting those for the salaries of the governor and the justices of the supreme judicial court, for the payrolls of the executive council and members of the general court, and those due on account of the principal or interest of a public debt. The comptroller may require paper or electronic affidavits that articles have been furnished, services rendered and obligations incurred, as claimed. Such paper or electronic affidavit for any office, department, commission and institution shall be made by the person authorized to incur such obligation. The comptroller shall make a certificate estimating the amount due and allowed on each account or demand and shall subsequently make available a report of the amounts and accounts so examined, the name of the person to whom such amount is payable and the account to which it is chargeable. The comptroller shall keep copies of and transmit all such certificates to the governor, who, with the advice and consent of the council, may issue his warrant to the state treasurer for the amount therein specified as due.

This authority shall pertain to all accounts and funds of the commonwealth unless specifically exempted by general or special law.

The comptroller may exclude from such certificate any amount otherwise due to any person owing an overdue debt to the commonwealth or any agency of the commonwealth; provided, however, that the head of such agency has filed with the comptroller a paper or electronic affidavit specifying that such debt exists, the amount due and the name of the debtor. Any such debt may be charged by the comptroller against any amount otherwise due from the commonwealth to such debtor, subject to regulations promulgated by the comptroller. Such regulations shall include, but not be limited to, the following requirements:

(1) that said agency issue 4 written notices to the debtor over a 120 day period prior to requesting exclusion of such overdue amounts from such certificate;

(2) that such notices advise the debtor of the debtor's right to a hearing before said agency, and;

(3) that, unless otherwise provided by law, said agency shall hold a hearing under chapter 30A upon timely written application of the debtor.

Said regulations may authorize the comptroller to waive requirements at the request of an agency head provided that all waivers shall be in writing and state the reasons for such waivers.

The comptroller shall not include on such certificate any amount for any account for which an appropriation is required under section 6 of chapter 29 if no such appropriation or no allotment has been made or if the amount of such appropriation and allotment for the current fiscal year is insufficient to meet the amount of the demand. The comptroller is prohibited from making or authorizing any spending authority to make a journal entry, so-called,

between accounts if the account ultimately to be charged had insufficient monies to support the entry at the time the amount being entered was expended, unless prior notification of the intent to make such a journal entry, indentifying the accounts involved and the amount of the entry, is sent to the house and senate committees on ways and means. The comptroller is further prohibited from certifying any amounts for payment in the event that there is an interim period at the beginning of a fiscal year prior to the final passage of the fiscal year appropriation act or any interim appropriation act, subject to the condition that any amounts otherwise authorized by law to be paid during such interim period may be so certified by the comptroller.

[Amended by Laws 2012, c. 165, sec. 72, effective January 1, 2013]

G.L.

C. 10 § 49. Repealed, 2003, 26, Sec. 45

Historical and Statutory Notes

St. 2003, c. 26, § 45, an emergency act, repealing this section, was approved June 30, 2003, and by § 713 made effective June 30, 2003, applicable as provided by § 710.

The repealed section, which related to the victim and witness assistance fund, was derived from:

St. 1983, c. 694, § 1.
St. 1987, c. 199, § 134.
St. 1993, c. 110, § 60.

Massachusetts Acts - Chapter 26 of 2003 (Part A).

SECTION 710. As of June 30, 2003, any reference to a fund listed in sections 35, 36, 37, 38, 39, 45, 58, 87, 94, 126, 128, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 239, 295, 296, 364, 381, 384, 407, 442, 530, 531, 536 and 539 in any general law or special act, shall be construed to refer to the General Fund.

G.L.c. 29, § 20. Authorization of payments

Section 20. No account or demand requiring the certificate of the comptroller or warrant of the governor shall be paid from an appropriation unless it has been authorized and approved by the head of the department, office, commission or institution for which it was contracted; nor shall any appropriation be used for expenses, except gratuities and special allowances by the general court, unless properly approved vouchers therefor have been filed with the comptroller. No such voucher shall be submitted by such head nor shall any such approval be given by such head unless sufficient funds are allotted for such purposes at the time the voucher is submitted or the approval is given.

[Recodified by Laws 2012, c. 165, sec. 112, effective January 1, 2013.]

G.L.c. 258B, § 3. Rights afforded victims, witnesses or family members

Section 3. To provide victims a meaningful role in the criminal justice system, victims and witnesses of crime, or in the event the victim is deceased, the family members of the victim, shall be afforded the following basic and fundamental rights, to the greatest extent possible and subject to appropriation and to available resources, with priority for services to be provided to victims of crimes against the person and crimes where physical injury to a person results:

(a) for victims, to be informed by the prosecutor about the victim's rights in the criminal process, including but not limited to the rights provided under this chapter. At the beginning of the criminal justice process, the prosecutor shall provide an explanation to the victim of how a case progresses through the criminal justice system, what the victim's role is in the process, what the system may expect from the victim, why the system requires this, and, if the victim requests, the prosecutor shall periodically apprise the victim of significant developments in the case;

(b) for victims and family members, to be present at all court proceedings related to the offense committed against the victim, unless the victim or family member is to testify and the court determines that the person's testimony would be materially affected by hearing other testimony at trial and orders the person to be excluded from the courtroom during certain other testimony;

(c) for victims and witnesses, to be notified by the prosecutor, in a timely manner, when a court proceeding to which they have been summoned will not go on as scheduled, provided that such changes are known in advance. In order to notify victims and witnesses, a form shall be provided to them by the prosecutor for the purpose of maintaining a current telephone number and address. The victim or witness shall thereafter maintain with the prosecutor a current telephone number and address;

(d) for victims and witnesses, to be provided with information by the prosecutor as to the level of protection available and to receive protection from the local law enforcement agencies from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts;

(e) for victims, to be informed by the prosecutor of financial assistance and other social services available to victims, including information relative to applying for such assistance or services;

(f) for victims and witnesses, to a prompt disposition of the case in which they are involved as a victim or a witness;

(g) for victims, to confer with the prosecutor before the commencement of the trial, before any hearing on motions by the defense to obtain psychiatric or other confidential records, and before the filing of a nolle prosequi or other act by the commonwealth terminating the prosecution or before the submission of the commonwealth's proposed sentence recommendation to the court. The prosecutor shall

inform the court of the victim's position, if known, regarding the prosecutor's sentence recommendation. The right of the victim to confer with the prosecutor does not include the authority to direct the prosecution of the case;

(h) for victims and witnesses, to be informed of the right to request confidentiality in the criminal justice system. Upon the court's approval of such request, no law enforcement agency, prosecutor, defense counsel, or parole, probation or corrections official may disclose or state in open court, except among themselves, the residential address, telephone number, or place of employment or school of the victim, a victim's family member, or a witness, except as otherwise ordered by the court. The court may enter such other orders or conditions to maintain limited disclosure of the information as it deems appropriate to protect the privacy and safety of victims, victims' family members and witnesses;

(i) for victims, family members and witnesses to be provided, by the court as provided in section 17 of chapter 211B, with a secure waiting area or room which is separate from the waiting area of the defendant or the defendant's family, friends, attorneys or witnesses and separate from the district attorney's office; provided, however, that the court shall designate a waiting area at each courthouse; and provided further, that designation of those areas shall be made in accordance with the implementation plan developed by the task force.

(j) for victims and witnesses, to be informed by the court and the prosecutor of procedures to be followed in order to apply for and receive any witness fee to which they are entitled;

(k) for victims and witnesses, to be provided, where appropriate, with employer and creditor intercession services by the prosecutor to seek employer cooperation in minimizing employees' loss of pay and other benefits resulting from their participation in the criminal justice process, and to seek consideration from creditors if the victim is unable, temporarily, to continue payments;

(l) for victims or witnesses who have received a subpoena to testify, to be free from discharge or penalty or threat of discharge or penalty by his employer by reason of his attendance as a witness at a criminal proceeding. A victim or witness who notifies his employer of his subpoena to appear as a witness prior to his attendance, shall not on account of his absence from employment by reason of such witness service be subject to discharge or penalty by his employer. Any employer or agent of said employer who discharges or disciplines or continues to threaten to discharge or discipline a victim or witness because that victim or witness is subpoenaed to attend court for the purpose of giving testimony may be subject to the sanctions stated in section fourteen A of chapter two hundred and sixty-eight;

(m) for victims and witnesses, to be informed of the right to submit to or decline an interview by defense counsel or anyone acting on the defendant's behalf, except when responding to lawful process, and, if the victim or witness decides to submit to an interview, the right to impose reasonable conditions on the conduct of the interview;

(n) for victims, to confer with the probation officer prior to the filing of the full presentence report. If the victim is not available or declines to confer, the probation officer shall record that information in the report. If the probation officer is not able to confer with the victim or the victim declines to confer, the probation officer shall note in the full presentence report the reason why the probation officer did not make contact with the victim;

(o) for victims, to request that restitution be an element of the final disposition of a case and to obtain assistance from the prosecutor in the documentation of the victim's losses. If restitution is ordered as part of a case disposition, the victim has the right to receive from the probation department a copy of the schedule of restitution payments and the name and telephone number of the probation officer or other official who is responsible for supervising the defendant's payments. If the offender seeks to modify the restitution order, the offender's supervising probation officer shall provide notice to the victim and the victim shall have the right to be heard at any hearing relative to the proposed modification.

(p) for victims, to be heard through an oral and written victim impact statement at sentencing or the disposition of the case against the defendant about the effects of the crime on the victim and as to a recommended sentence, pursuant to section four B of chapter two hundred and seventy-nine, and to be heard at any other time deemed appropriate by the court. The victim also has a right to submit the victim impact statement to the parole board for inclusion in its records regarding the perpetrator of the crime;

(q) for victims, to be informed by the prosecutor of the final disposition of the case, including, where applicable, an explanation of the type of sentence imposed by the court and a copy of the court order setting forth the conditions of probation or other supervised or unsupervised release within thirty days of establishing the conditions, with the name and telephone number of the probation officer, if any, assigned to the defendant;

(r) for victims, to have any personal property that was stolen or taken for evidentiary purposes, except contraband, property subject to evidentiary analysis, and property the ownership of which is disputed, returned by the court, the prosecutor or law enforcement agencies within ten days of its taking or recovery if it is not needed for law enforcement or prosecution purposes or as expeditiously as possible when said property is no longer needed for law enforcement or prosecution purposes;

(s) for victims, to be informed by the parole board of information regarding the defendant's parole eligibility and status in the criminal justice system;

(t) for victims, to be informed in advance by the appropriate custodial authority whenever the defendant receives a temporary, provisional or final release from custody, whenever a defendant is moved from a secure facility to a less-secure facility, and whenever the defendant escapes from custody. The victim shall be informed by the prosecutor about notification rights and the

certification process required to access the criminal offender record information files. Persons requesting such notice must provide the appropriate authority with current information as to their address and telephone number;

(u) for victims, to be informed that the victim may have a right to pursue a civil action for damages relating to the crime, regardless of whether the court has ordered the defendant to make restitution to the victim.

(v) for one family member of a victim of a homicide, which the matter before the court is related, to possess in the courtroom a photograph, that is not of itself of an inflammatory nature, of the deceased victim that is not larger than eight by ten inches; provided, however, that at no time may the photograph be exposed or in anyway displayed in the presence of any member of the jury, or the jury pool from which a jury is to be selected in a particular matter; provided, further, that nothing in this section shall preclude the admission into evidence of a photograph that the court deems relevant and material.

(w) Where the victim or witness is an employee of the department of youth services, no law enforcement agency, prosecutor, defense counsel or parole, probation or corrections official shall disclose or state the residential address, telephone number or place of employment or school of the victim, a victim's family member or a witness, except as otherwise ordered by the court. The court may enter such other orders or conditions to maintain limited disclosure of the information as it deems appropriate to protect the privacy and safety of victims, victims' family members and witnesses.

There shall be conspicuously posted in all courthouses and police stations a summary of the rights afforded under this section. The victim and witness assistance board, pursuant to section 4, shall devise and provide posters to satisfy this requirement to court officials and police station personnel, and, upon request and at the discretion of the office and board, to any other institution or organization to post and maintain in space accessible to the general public. The board shall develop such posters in a variety of languages as determined by the Massachusetts office for victim assistance. Upon request, the board will respond, to the extent possible, to any requests for additional language translations of such posters.

[Amended by 2010, 131, sec. 99 effective July 1, 2010;
Amended by Laws 2012, c. 139, sec. 138, effective
July 1, 2012.]

G.L.c. 258B, § 8. Assessments imposed by court

Section 8. The court shall impose an assessment of no less than \$90 against any person who has attained the age of seventeen years and who is convicted of a felony or against whom a finding of sufficient facts for a conviction is made on a complaint charging a felony. The court shall impose an assessment of \$50 against any person who has attained the age of seventeen and who is convicted of a misdemeanor or against whom a finding of sufficient facts for a conviction is made on a complaint charging a misdemeanor. The court shall impose an assessment of \$45 against any person who has attained the age of fourteen years and who is adjudicated a delinquent child or against whom a finding of sufficient facts for a finding of delinquency is made. The court shall impose an additional domestic violence prevention and victim assistance assessment of \$50 for: (i) any violation of an order issued pursuant to sections 18 or 34B of chapter 208, section 32 of chapter 209, sections 3, 4 or 5 of chapter 209A or section 15 or 20 of chapter 209C; (ii) a conviction or adjudication for an act which would constitute abuse, as defined in section 1 of chapter 209A; or (iii) a violation of section 13M or 15D of chapter 265, which shall be deposited in the Domestic and Sexual Violence Prevention and Victim Assistance Fund, established in section 20 of chapter 17. The court, including the clerk-magistrate, or the registrar of motor vehicles shall impose an assessment of \$45 against any violator who fails to pay the scheduled civil assessment for a civil motor vehicle infraction or to request a noncriminal hearing within the twenty day period provided for in subsection (A) of section three of chapter ninety C, except where the person is required by law to exercise the right to pay before a justice. When multiple civil motor vehicle infractions arising from a single incident are charged, the total assessment shall not exceed \$75; provided, however, that the total assessment against a person who has not attained seventeen years shall not exceed thirty dollars. In the discretion of the court or the clerk magistrate in the case of a civil motor vehicle infraction that has not been heard by or brought before a justice, a civil motor vehicle assessment imposed pursuant to this section which would cause the person against whom the assessment is imposed severe financial hardship, may be reduced or waived. If it is determined by a written finding of fact that an assessment, other than for a civil motor vehicle infraction imposed by this section would impose a severe financial hardship upon the person against whom the assessment is imposed, the court may waive the fee or structure a payment plan in order to ensure compliance with payment; provided, however, that the court may order a person required to pay a domestic violence prevention and victim assistance assessment to complete at least 8 hours of community service in order to satisfy such assessment, if a structured payment would continue to impose a severe financial hardship. Such a finding shall be made independently of a finding of indigency for purposes of appointing counsel. If the person is sentenced to a correctional facility in the commonwealth and the assessment has not been paid, the court shall note the assessment on the mittimus.

All such assessments made shall be collected by the court or by the registrar, as the case may be, and shall be transmitted monthly to the state treasurer. If the person

convicted is sentenced to a correctional facility in the commonwealth, the superintendent or sheriff of the facility shall deduct any part or all of the monies earned or received by any inmate and held by the correctional facility, to satisfy the victim and witness assessment, and shall transmit such monies to the court monthly. The assessment from any conviction or adjudication of delinquency which is subsequently overturned on appeal shall be refunded by the court to the person whose conviction or adjudication of delinquency is overturned. Said court shall deduct such funds from the assessments transmitted to the state treasurer. Assessments pursuant to this section shall be in addition to any other fines or restitution imposed in any disposition.

When a determination of the order of priority for payments required of a defendant must be made by the court or other criminal justice system personnel required to assess and collect such fines, assessments or other payments, the victim and witness assessment and the domestic violence prevention and victim assistance assessment mandated by this section shall be the defendant's first obligation.

[Amended by 2002, 184, secs. 125 - 128 effective July 1, 2002;
Amended by Laws 2014, c. 260, secs. 20 to 22, effective
August 8, 2014.]

G.L.c. 258B, § 9. Deposit of assessments; victim and witness assistance fund.

Section 9. Any assessment imposed pursuant to section eight shall be deposited in the Victim and Witness Assistance Fund, established by section forty-nine of chapter ten. In addition, the board may also apply for and accept on behalf of the commonwealth any private grants, bequests, gifts or contributions to further aid in financing programs or policies of the division. Such funds shall be received by the state treasurer on behalf of the commonwealth and deposited into said fund; provided, that said board shall submit to the house and senate committees on ways and means, as necessary, a report detailing all such amounts as deposited into said fund. All monies deposited into said fund that are unexpended at the end of the year shall not revert to the General Fund. The proceeds of the fund shall be made available, subject to appropriation, to the district attorney victim and witness programs, to the attorney general and the parole board for programs serving crime victims and witnesses.

General Laws of Massachusetts

- ☐ General Laws of Massachusetts
- ☐ PART IV CRIMES, PUNISHMENTS AND PROCEEDINGS IN CRIMINAL CASES
- ☐ TITLE II PROCEEDINGS IN CRIMINAL CASES
- ☐ CHAPTER 276 SEARCH WARRANTS, REWARDS, FUGITIVES FROM JUSTICE, ARREST, EXAMINATION, COMMITMENT AND BAIL. PROBATION OFFICERS AND BOARD OF PROBATION
- ☐ PROBATION OFFICERS.

G.L.c. 276, § 87A. Conditions of probation; probation fees

Section 87A. The conditions of probation imposed by a court upon a person pursuant to section eighty-seven of this chapter, section fifty-eight of chapter one hundred and nineteen or section one or section one A of chapter two hundred and seventy-nine, may include, but shall not be limited to, participation by said person in specified rehabilitative programs or performance by said person of specified community service work for a stated period of time. If the court requires as a condition of probation that the defendant reside in alcohol and drug free housing within the commonwealth, the judge issuing the order shall require the probation officer to refer the defendant only to alcohol and drug free housing certified under section 18A of chapter 17 and the probation officer shall require the defendant to reside in such certified housing in order to satisfy such condition. If accredited alcohol and drug free housing is not available, the judge issuing the order may permit the probation officer to refer the person placed on supervised probation to alcohol and substance free housing that is available and that, in the judge's discretion, appropriately supports the recovery goals of the person. If the court imposes as a condition of probation that the person reside in alcohol and drug free housing in another state, the judge issuing the order may permit the probation officer to refer the person to alcohol and drug free housing that, in the judge's discretion, appropriately supports the recovery goals of the person.

The court shall assess upon every person placed on supervised probation, including all persons placed on probation for offenses under section 24 of chapter 90, a monthly probation supervision fee, hereinafter referred to as "probation fee", in the amount of \$60 per month. Said person shall pay said probation fee once each month during such time as said person remains on supervised probation. The court shall assess upon every person placed on administrative supervised probation a monthly administrative probation supervision fee, hereinafter referred to as "administrative probation fee", in the amount of \$45 per month. Said person shall pay said administrative probation fee once each month during such time as said person remains on administrative supervised probation. Notwithstanding the foregoing, said fees shall not be assessed upon any person accused or convicted of a violation of section 1 or 15 of chapter 273, where compliance with an order of support for a spouse or minor child is a condition of probation.

The court may not waive payment of either or both of said fees unless it determines after a hearing and upon written

finding that such payment would constitute an undue hardship on said person or his family due to limited income, employment status or any other factor. Following the hearing and upon such written finding that either or both of said fees would cause such undue hardship then: (1) in lieu of payment of said probation fee the court shall require said person to perform unpaid community work service at a public or nonprofit agency or facility, as approved and monitored by the probation department, for not less than one day per month and (2) in lieu of payment of said administrative probation fee the court shall require said person to perform unpaid community work service at a public or nonprofit agency or facility, as approved and monitored by the probation department, for not less than four hours per month. Such waiver shall be in effect only during the period of time that said person is unable to pay his monthly probation fee.

The court may waive payment of either or both of said fees in whole or in part if said person is assessed payment of restitution. In such cases, said fees may be waived only to the extent and during the period that restitution is paid in an amount equivalent to said fee.

Said probation fee shall be collected by the several probation offices of the trial court and transmitted to the state treasurer for deposit into the General Fund. The state treasurer shall account for all such fees received and report said fees annually, itemized by court division, to the house and senate committees on ways and means.

The court shall also assess upon every person placed on supervised probation, including all persons placed on probation for offenses under section 24 of chapter 90, a monthly probationers' victim services surcharge, hereinafter referred to as "victim services surcharge", in the amount of \$5 per month. Said person shall pay said victim services surcharge once each month during such time as said person remains on supervised probation. The court shall assess upon every person placed on administrative supervised probation a monthly administrative probationer's victim services surcharge, hereinafter referred to as "administrative victim services surcharge" in the amount of \$5 per month.

Said person shall pay said administrative victim services surcharge once each month during such time as said person remains on administrative supervised probation. Notwithstanding the foregoing, said fees shall not be assessed upon any person accused or convicted of a violation of section 1 or 15 of chapter 273, where compliance with an order of support for a spouse or minor child is a condition of probation.

The court may not waive payment of either or both of said fees unless it has determined, after a hearing and upon written finding, that such payment would constitute an undue hardship on said person or his family due to limited income, employment status or any other factor. Such waiver shall be in effect only during the period of time that said person is unable to pay his monthly probation fee.

Said probation fee shall be collected by the several probation offices of the trial court and shall be transmitted to the state treasurer for deposit into the General Fund of the commonwealth. The state treasurer shall

account for all such fees received and report said fees annually, itemized by court division, to the house and senate committees on ways and means.

[Amended by 2002, 300, sec. 13 effective August 30, 2002; amended by 2003, 26, sec. 510 effective July 1, 2003; amended by 2009, 27, sec. 99 effective July 1, 2009; Amended by Laws 2014, c. 165, sec. 179, effective July 1, 2014.]

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G.L.c. 280, § 6. Costs as penalty for crime; expenses of prosecution.

Section 6. Costs shall not be imposed by a justice as a penalty for a crime. A justice may, as a condition of the dismissal or placing on file of a complaint or indictment, or as a term of probation, order the defendant to pay the reasonable and actual expenses of the prosecution. A justice may impose reasonable costs as a result of a default by a criminal defendant that was intentional or negligent and without good cause.

G.L.c. 280, § 6B. Criminal assessments

Section 6B. The court shall impose an assessment of not less than thirty-five dollars nor more than one hundred dollars against any person who has attained the age of 18 years and who is convicted of a misdemeanor or against whom a finding of sufficient facts for a conviction is made on a complaint charging a misdemeanor under sections thirty-two C, thirty-two D, and thirty-two G and thirty-five of chapter ninety-four C. The court shall impose an assessment of not less than one hundred and fifty dollars nor more than five hundred dollars against any person who is convicted of a felony or against whom a finding of sufficient facts for a conviction is made on a complaint charging a felony under sections thirty-two, thirty-two A, thirty-two B, thirty-two E, thirty-two F and thirty-four of chapter ninety-four C. When multiple criminal offenses arising from a single incident are charged, the total assessment shall not exceed five hundred dollars. In the discretion of the court, any assessment imposed pursuant to this section which would cause the person against whom the assessment is made an undue hardship may be reduced or waived.

All such assessments made shall be collected by the court and shall be transmitted monthly to the state treasurer. The assessment from any conviction which is subsequently overturned on appeal shall be refunded by the court to the person whose conviction is overturned. Said court shall deduct such funds from the assessments transmitted to the state treasurer. Assessments pursuant to this section shall be in addition to any other fines or restitution imposed in any disposition.

[Amended by Laws 2013, c. 84, sec. 33, effective September 18, 2013.]

G.L.c. 280, § 6C. Assessment proceeds.

Section 6C. Any assessment imposed pursuant to section six B shall be deposited in the Drug Analysis Fund established by section fifty-one of chapter ten. The proceeds of the fund shall be made available, subject to appropriation, to the department of public health for services provided to analyse samples used in the prosecution of controlled substances.

DEFENDANT'S RECORD APPENDIX

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CRIMINAL COMPLAINT ORIGINAL		DOCKET NUMBER 1056CR006033	NO. OF COUNTS 5	Trial Court of Massachusetts District Court Department
DEFENDANT NAME & ADDRESS Pierce A Martin 45 West Park Street #5 Brockton, MA 02301				COURT NAME & ADDRESS Quincy District Court One Dennis Ryan Pkwy Quincy, MA 02169 (617)471-1650
DEFENDANT DOB 10/15/1981	COMPLAINT ISSUED 10/19/2010	DATE OF OFFENSE 10/18/2010	ARREST DATE 10/18/2010	
OFFENSE CITY / TOWN Quincy		OFFENSE ADDRESS 935 Southern Artery		NEXT EVENT DATE & TIME 10/19/2010 9:00 AM
POLICE DEPARTMENT Quincy PD		POLICE INCIDENT NUMBER 10050093		NEXT SCHEDULED EVENT Arraignment
OBTN TQUI100180801				ROOM / SESSION Arraignment Session
The undersigned complainant, on behalf of the Commonwealth, on oath complains that on the date(s) indicated below the defendant committed the offense(s) listed below and on any attached pages.				

COUNT	CODE	DESCRIPTION
1	94C/32C/D	<i>Amend to straight offense of class D Drug.</i> DRUG, POSSESS TO DISTRIB CLASS D, SUBSQ c94C §32C(b)

On 10/18/2010, not being authorized by law, did knowingly or intentionally possess with intent to manufacture, distribute or dispense a controlled substance in Class D of G.L. c.94C, §31, to wit: Marijuana, the defendant having previously been convicted of a similar offense, or an offense of another jurisdiction which is the same as or necessarily includes the elements of such offense, in violation of G.L. c.94C, §32C(b).

PENALTY: imprisonment not less than 1 year, not more than 2½ years; or not less than \$1000, not more than \$10,000; or both; G.L. c.280, §6B: plus Drug Analysis Fee of not less than \$35, not more than \$100, with maximum fee of \$500 for multiple offenses from single incident.

2	94C/32J	DRUG VIOLATION NEAR SCHOOL/PARK c94C §32J
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On 10/18/2010 did, as charged in the accompanying count(s), violate the provisions of G.L. c.94C, §§32, 32A, 32B, 32C, 32D, 32E, 32F or 32I while in or on, or within 1000 feet of the real property comprising a public or private accredited preschool, accredited headstart facility, or elementary, vocational or secondary school, or within 100 feet of a public park or playground, in violation of G.L. c.94C, §32J.

(ADDITIONAL PENALTY FROM AND AFTER SENTENCE FOR VIOLATION OF §32, 32A, 32B, 32C, 32D, 32E, 32F or 32I: state prison not less than 2 1/2 years, not more than 15 years; or jail or house of correction not less than a mandatory minimum of 2 years, not more than 2 1/2 years; and optional fine not less than \$1000, not more than \$10,000. §32H: may not be filed or continued without a finding; no reduction or suspension of sentence until 2 years served. District Court has final jurisdiction under G.L. c.218, §28.)

3	90/10/A	UNLICENSED OPERATION OF MV c90 §10
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On 10/18/2010, not being duly licensed or otherwise excepted by law, did operate a motor vehicle on a way, as defined in G.L. c.90, §1, in violation of G.L. c.90, §10.

(PENALTY from §20: not less than \$100, not more than \$1000.)

SIGNATURE OF COMPLAINANT <i>[Signature]</i>	SWORN TO BEFORE CLERK/MAGISTRATE/ASST. CLERK/DEP. ASST. CLERK <i>[Signature]</i>	DATE 10/19/10
NAME OF COMPLAINANT Ruth F. Potter	CLERK/MAGISTRATE/ ASST. CLERK <i>[Signature]</i>	DATE 1

Notice to Defendant: 42 U.S.C. § 3796gg-4(e) requires this notice: If you are convicted of a misdemeanor crime of domestic violence you may be prohibited permanently from purchasing and/or possessing a firearm and/or ammunition pursuant to 18 U.S.C. § 922 (g) (9) and other applicable related Federal, State, or local laws.

R.A.1

CRIMINAL DOCKET		DOCKET NUMBER 1056CR006033	NO. OF COUNTS 5	Trial Court of Massachusetts District Court Department	
DEFENDANT NAME AND ADDRESS Pierce A Martin 45 West Park Street #5 Brockton, MA 02301		DOB 10/15/1981	GENDER Male	COURT NAME & ADDRESS Quincy District Court One Dennis Ryan Pkwy Quincy, MA 02169	
		DATE COMPLAINT ISSUED 10/19/2010			
		PRECOMPLAINT ARREST DATE 10/18/2010		INTERPRETER REQUIRED	
FIRST FIVE OFFENSE COUNTS					
COUNT	CODE	OFFENSE DESCRIPTION			OFFENSE DATE
1	94C/32C/D	DRUG, POSSESS TO DISTRIB CLASS D, SUBSQ. c94C §32C(b)			10/18/2010
2	94C/32J	DRUG VIOLATION NEAR SCHOOL/PARK c94C §32J			10/18/2010
3	90/10/A	UNLICENSED OPERATION OF MV c90 §10			10/18/2010
4	89/9	STOP/YIELD, FAIL TO * c89 §9			10/18/2010
5	90/13A	SEAT BELT, FAIL WEAR * c90 §13A			10/18/2010
DEFENSE ATTORNEY <i>Coleman</i>		OFFENSE CITY/TOWN Quincy		POLICE DEPARTMENT Quincy PD	
DATE & JUDGE <i>10-19-10</i> <i>Cow 6</i>		DOCKET ENTRY <i>8/28/12</i>		DATE & JUDGE <i>10-19-10</i> <i>Cow 6</i>	
<input type="checkbox"/> Attorney appointed (SJC R. 3:10) <input type="checkbox"/> Atty denied & Def. Advised per 211 D §2A <input type="checkbox"/> Waiver of Counsel found after colloquy		<input type="checkbox"/> PR <input type="checkbox"/> Bail Terms of release set: <input type="checkbox"/> See Docket for special condition <input type="checkbox"/> Held (276 §58A)		Counsel Fee (21D § 2A(2)) <input type="checkbox"/> WAIVED \$ <i>150</i>	
				Counsel Contribution (211D § 2) <input type="checkbox"/> WAIVED \$	
Arraigned and advised: <input type="checkbox"/> Potential of bail revocation (276 §58) <input type="checkbox"/> Right to bail to review (276 §58) <input type="checkbox"/> Right to drug exam (111E § 10)		<input type="checkbox"/> PR <input type="checkbox"/> Bail Terms of release set: <input type="checkbox"/> See Docket for special condition <input type="checkbox"/> Held (276 §58A)		Default Warrant Fee (276 § 30(1)) <input type="checkbox"/> WAIVED \$	
				Default Warrant Arrest Fee (276 § 30(2)) <input type="checkbox"/> WAIVED \$	
Advised of right to jury trial <input type="checkbox"/> Waiver of jury found after colloquy <input type="checkbox"/> Does not waive		<input type="checkbox"/> Potential of bail revocation (276 §58) <input type="checkbox"/> Right to bail to review (276 §58) <input type="checkbox"/> Right to drug exam (111E § 10)		Probation Supervision Fee (276 § 87A) <input type="checkbox"/> WAIVED \$ <i>105.00</i>	
				Bail Order Forfeited	
Advised of trial rights as pro se (Dist. Ct. Supp.R.4)		<input type="checkbox"/> Waiver of jury found after colloquy <input type="checkbox"/> Does not waive		Advised of right of appeal to Appeals Ct. (M.R. Crim P.R. 28)	
				Advised of right of appeal to Appeals Ct. (M.R. Crim P.R. 28)	
Advised of trial rights as pro se (Dist. Ct. Supp.R.4)		<input type="checkbox"/> Waiver of jury found after colloquy <input type="checkbox"/> Does not waive		Bail Self Security Ret'd <i>500.00</i>	
				Bail Self Security Ret'd <i>500.00</i>	
SCHEDULING HISTORY					
NO.	SCHEDULED DATE	EVENT	RESULT	JUDGE	TAPE START/STOP
1	10/19/2010	Arraignment	<input checked="" type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
2	12-20-10	92mc	<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
3	3/3/11	Caw 2	<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
4	5-5-11	C7E	<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
5	7-28-11	C7E	<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
6	10-12-11	R-L to	<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
7	10-13-11	Not to Sup	<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
8	10-9-12	JUD	<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
9	8-29-13	9:00V	<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
10			<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
APPROVED ABBREVIATIONS					
ARR = Arraignment PTH = Pretrial hearing DCE = Discovery compliance & jury selection BTR = Bench trial JTR = Jury trial PCH = Probable Cause Hearing SRP = Status review SRP = Status review of payments FAT = First appearance in jury session SEN = Sentencing CWF = Continuance without finding scheduled to terminate PPO = Probation scheduled to terminate OFTA = Defendant failed to appear & was defaulted WAR = Warrant issued WARD = Default warrant issued WR = Warrant or default warrant recalled PVH = probation revocation hearing					
A TRUE COPY ATTEST:		CLERK/MAGISTRATE / ASST CLERK <i>X [Signature]</i>		TOTAL NO. OF PAGES 5	ON (DATE) 3/20/15

CRIMINAL DOCKET - OFFENSES		DEFENDANT NAME Pierce A Martin		DOCKET NUMBER 1056CR006033	
COUNT / OFFENSE 1 DRUG, POSSESS TO SUBST CLASS D, SUBSQ. c94C §32C(b)		DISPOSITION DATE AND JUDGE 10/13/11 (even)			
DISPOSITION METHOD <input checked="" type="checkbox"/> Guilty Plea or <input type="checkbox"/> Admission to Sufficient Facts accepted after colloquy and 278 §28D warning <input type="checkbox"/> Bench Trial <input type="checkbox"/> Jury Trial <input type="checkbox"/> Dismissed upon: <input type="checkbox"/> Request of Commonwealth <input type="checkbox"/> Request of Victim <input type="checkbox"/> Request of Defendant <input type="checkbox"/> Failure to prosecute <input type="checkbox"/> Other: <i>Nolle Prosequi filed</i> <input type="checkbox"/> Filed with Defendant's consent <input type="checkbox"/> Nolle Prosequi <input type="checkbox"/> Decriminalized (277 §70 C)		FINE/ASSESSMENT HEAD INJURY ASMT RESTITUTION FINE/ASSESSMENT SURFINE RESTITUTION COSTS VW ASSESSMENT <i>\$50.00</i>		<input type="checkbox"/> OUI §24D FEE <input type="checkbox"/> OUI VICTIMS ASMT <input type="checkbox"/> BATTERER'S FEE <input type="checkbox"/> OTHER	
SENTENCE OR OTHER DISPOSITION <input checked="" type="checkbox"/> Sufficient facts found but continued without a finding until: <input checked="" type="checkbox"/> Defendant placed on probation until: 10/9/12 <input type="checkbox"/> Risk/Need or OUI <input type="checkbox"/> Administrative Supervision <input type="checkbox"/> Defendant placed on pretrial probation (276 §87) until: <input type="checkbox"/> To be dismissed if court costs / restitution paid by: <i>Obtain from drugs with random testing</i>		FINDING <input checked="" type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> Responsible <input type="checkbox"/> Not Responsible <input type="checkbox"/> Probable Cause <input type="checkbox"/> No Probable Cause			
COUNT / OFFENSE 2 DRUG VIOLATION NEAR SCHOOL/PARK c94C §32J		DISPOSITION DATE AND JUDGE 10/13/11 (even)			
DISPOSITION METHOD <input type="checkbox"/> Guilty Plea or <input type="checkbox"/> Admission to Sufficient Facts accepted after colloquy and 278 §28D warning <input type="checkbox"/> Bench Trial <input type="checkbox"/> Jury Trial <input checked="" type="checkbox"/> Dismissed upon: <input type="checkbox"/> Request of Commonwealth <input type="checkbox"/> Request of Victim <input type="checkbox"/> Request of Defendant <input type="checkbox"/> Failure to prosecute <input type="checkbox"/> Other: <input type="checkbox"/> Filed with Defendant's consent <input type="checkbox"/> Nolle Prosequi <input type="checkbox"/> Decriminalized (277 §70 C)		FINE/ASSESSMENT HEAD INJURY ASMT RESTITUTION FINE/ASSESSMENT SURFINE RESTITUTION COSTS VW ASSESSMENT		<input type="checkbox"/> OUI §24D FEE <input type="checkbox"/> OUI VICTIMS ASMT <input type="checkbox"/> BATTERER'S FEE <input type="checkbox"/> OTHER	
SENTENCE OR OTHER DISPOSITION <input type="checkbox"/> Sufficient facts found but continued without a finding until: <input type="checkbox"/> Defendant placed on probation until: <input type="checkbox"/> Risk/Need or OUI <input type="checkbox"/> Administrative Supervision <input type="checkbox"/> Defendant placed on pretrial probation (276 §87) until: <input type="checkbox"/> To be dismissed if court costs / restitution paid by:		FINDING <input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> Responsible <input type="checkbox"/> Not Responsible <input type="checkbox"/> Probable Cause <input type="checkbox"/> No Probable Cause			
COUNT / OFFENSE 3 UNLICENSED OPERATION OF MV c90 §10		DISPOSITION DATE AND JUDGE 10/13/11 (even)			
DISPOSITION METHOD <input checked="" type="checkbox"/> Guilty Plea or <input type="checkbox"/> Admission to Sufficient Facts accepted after colloquy and 278 §28D warning <input type="checkbox"/> Bench Trial <input type="checkbox"/> Jury Trial <input type="checkbox"/> Dismissed upon: <input type="checkbox"/> Request of Commonwealth <input type="checkbox"/> Request of Victim <input type="checkbox"/> Request of Defendant <input type="checkbox"/> Failure to prosecute <input type="checkbox"/> Other: <input checked="" type="checkbox"/> Filed with Defendant's consent <i>10/9/12</i> <input type="checkbox"/> Nolle Prosequi <input type="checkbox"/> Decriminalized (277 §70 C)		FINE/ASSESSMENT HEAD INJURY ASMT RESTITUTION FINE/ASSESSMENT SURFINE RESTITUTION COSTS VW ASSESSMENT		<input type="checkbox"/> OUI §24D FEE <input type="checkbox"/> OUI VICTIMS ASMT <input type="checkbox"/> BATTERER'S FEE <input type="checkbox"/> OTHER	
SENTENCE OR OTHER DISPOSITION <input type="checkbox"/> Sufficient facts found but continued without a finding until: <input type="checkbox"/> Defendant placed on probation until: <input type="checkbox"/> Risk/Need or OUI <input type="checkbox"/> Administrative Supervision <input type="checkbox"/> Defendant placed on pretrial probation (276 §87) until: <input type="checkbox"/> To be dismissed if court costs / restitution paid by:		FINDING <input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> Responsible <input type="checkbox"/> Not Responsible <input type="checkbox"/> Probable Cause <input type="checkbox"/> No Probable Cause			
FINAL DISPOSITION <input type="checkbox"/> Dismissed on recommendation of Probation Dept. <input type="checkbox"/> Probation terminated: defendant discharged <input type="checkbox"/> Sentence or disposition revoked (see cont'd page)		TRUE COPY ATTEST <i>[Signature]</i> CLERK/MAGISTRATE			



CRIMINAL DOCKET - OFFENSES		DEFENDANT NAME Pierce A Martin		DOCKET NUMBER 1056CR006033	
COUNT / OFFENSE 4 STOP/YIELD, FAIL TO * c89 §9				DISPOSITION DATE AND JUDGE 10/13/11 <i>Conner</i>	
DISPOSITION METHOD <input type="checkbox"/> Guilty Plea or <input type="checkbox"/> Admission to Sufficient Facts accepted after colloquy and 278 §29D warning <input type="checkbox"/> Bench Trial <input type="checkbox"/> Jury Trial <input type="checkbox"/> Dismissed upon: <input type="checkbox"/> Request of Commonwealth <input type="checkbox"/> Request of Victim <input type="checkbox"/> Request of Defendant <input type="checkbox"/> Failure to prosecute <input checked="" type="checkbox"/> Other: <input checked="" type="checkbox"/> Filed with Defendant's consent <input type="checkbox"/> Nolle Prosequi <input type="checkbox"/> Decriminalized (277 §70 C)		FINE/ASSESSMENT <input type="checkbox"/> HEAD INJURY ASMT <input type="checkbox"/> RESTITUTION <input type="checkbox"/> FINE/ASSESSMENT <input type="checkbox"/> VAW ASSESSMENT		COSTS <input type="checkbox"/> OUI §24D FEE <input type="checkbox"/> OUI VICTIMS ASMT <input type="checkbox"/> BATTERER'S FEE <input type="checkbox"/> OTHER	
FINDING <input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input checked="" type="checkbox"/> Responsible <input type="checkbox"/> Not Responsible <input type="checkbox"/> Probable Cause <input type="checkbox"/> No Probable Cause		SENTENCE OR OTHER DISPOSITION <input type="checkbox"/> Sufficient facts found but continued without a finding until: <input type="checkbox"/> Defendant placed on probation until: <input type="checkbox"/> Risk/Need or OUI <input type="checkbox"/> Administrative Supervision <input type="checkbox"/> Defendant placed on pretrial probation (276 §87) until: <input type="checkbox"/> To be dismissed if court costs / restitution paid by:			
FINAL DISPOSITION <input type="checkbox"/> Dismissed on recommendation of Probation Dept. <input type="checkbox"/> Probation terminated: defendant discharged <input type="checkbox"/> Sentence or disposition revoked (see cont'd page)		JUDGE		DATE	
COUNT / OFFENSE 5 SEAT BELT, FAIL WEAR * c90 §13A				DISPOSITION DATE AND JUDGE 10/13/11 <i>Conner</i>	
DISPOSITION METHOD <input type="checkbox"/> Guilty Plea or <input type="checkbox"/> Admission to Sufficient Facts accepted after colloquy and 278 §29D warning <input type="checkbox"/> Bench Trial <input type="checkbox"/> Jury Trial <input type="checkbox"/> Dismissed upon: <input type="checkbox"/> Request of Commonwealth <input type="checkbox"/> Request of Victim <input type="checkbox"/> Request of Defendant <input type="checkbox"/> Failure to prosecute <input checked="" type="checkbox"/> Other: <input checked="" type="checkbox"/> Filed with Defendant's consent <input type="checkbox"/> Nolle Prosequi <input type="checkbox"/> Decriminalized (277 §70 C)		FINE/ASSESSMENT <input type="checkbox"/> HEAD INJURY ASMT <input type="checkbox"/> RESTITUTION <input type="checkbox"/> FINE/ASSESSMENT <input type="checkbox"/> VAW ASSESSMENT		COSTS <input type="checkbox"/> OUI §24D FEE <input type="checkbox"/> OUI VICTIMS ASMT <input type="checkbox"/> BATTERER'S FEE <input type="checkbox"/> OTHER	
FINDING <input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input checked="" type="checkbox"/> Responsible <input type="checkbox"/> Not Responsible <input type="checkbox"/> Probable Cause <input type="checkbox"/> No Probable Cause		SENTENCE OR OTHER DISPOSITION <input type="checkbox"/> Sufficient facts found but continued without a finding until: <input type="checkbox"/> Defendant placed on probation until: <input type="checkbox"/> Risk/Need or OUI <input type="checkbox"/> Administrative Supervision <input type="checkbox"/> Defendant placed on pretrial probation (276 §87) until: <input type="checkbox"/> To be dismissed if court costs / restitution paid by:			
FINAL DISPOSITION <input type="checkbox"/> Dismissed on recommendation of Probation Dept. <input type="checkbox"/> Probation terminated: defendant discharged <input type="checkbox"/> Sentence or disposition revoked (see cont'd page)		JUDGE		DATE	
COUNT / OFFENSE				DISPOSITION DATE AND JUDGE	
DISPOSITION METHOD <input type="checkbox"/> Guilty Plea or <input type="checkbox"/> Admission to Sufficient Facts accepted after colloquy and 278 §29D warning <input type="checkbox"/> Bench Trial <input type="checkbox"/> Jury Trial <input type="checkbox"/> Dismissed upon: <input type="checkbox"/> Request of Commonwealth <input type="checkbox"/> Request of Victim <input type="checkbox"/> Request of Defendant <input type="checkbox"/> Failure to prosecute Other: <input type="checkbox"/> Filed with Defendant's consent <input type="checkbox"/> Nolle Prosequi <input type="checkbox"/> Decriminalized (277 §70 C)		FINE/ASSESSMENT <input type="checkbox"/> HEAD INJURY ASMT <input type="checkbox"/> RESTITUTION <input type="checkbox"/> FINE/ASSESSMENT <input type="checkbox"/> VAW ASSESSMENT		COSTS <input type="checkbox"/> OUI §24D FEE <input type="checkbox"/> OUI VICTIMS ASMT <input type="checkbox"/> BATTERER'S FEE <input type="checkbox"/> OTHER	
FINDING <input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> Responsible <input type="checkbox"/> Not Responsible <input type="checkbox"/> Probable Cause <input type="checkbox"/> No Probable Cause		SENTENCE OR OTHER DISPOSITION <input type="checkbox"/> Sufficient facts found but continued without a finding until: <input type="checkbox"/> Defendant placed on probation until: <input type="checkbox"/> Risk/Need or OUI <input type="checkbox"/> Administrative Supervision <input type="checkbox"/> Defendant placed on pretrial probation (276 §87) until: <input type="checkbox"/> To be dismissed if court costs / restitution paid by:			
FINAL DISPOSITION <input type="checkbox"/> Dismissed on recommendation of Probation Dept. <input type="checkbox"/> Probation terminated: defendant discharged <input type="checkbox"/> Sentence or disposition revoked (see cont'd page)		JUDGE		DATE	

CRIMINAL DOCKET DOCKET ENTRIES		DEFENDANT NAME Pierce A Martin	DOCKET NUMBER 1056CR006033
DATE	DOCKET ENTRIES		
10-19-10 C	276-58 WARNING Sen B-I SCU		
11-8-10	Motion To Preserve Evidence : Motion For Production of Videotape Evidence Filed		
8-4-11	Counsel files motion to continue		
8-5-11	Motion to continue allowed to 10-13-11. Coren, J.		
9-30-11	Motion To Produce Evidence of Video Motion To Dismiss Memorandum Certificate of Service - filed		
10/14/11	Bail Returned to custody. CR # 5106-350. Bail funds applied 150.00 LCF \$500		
1-4-12	V.P.W. NOT IN BAIL		
1-4-12	Issued - See Probation's Request		
8-28-12	Per Court Atty Keene App'd After hearing A reported to VOP. VOP found O. Probation is extended until 8/27/13. Abstain from Drug / Alcohol for 90 days. Coven to		
9-18-12	Ad Watson files appearance		
10-3-12	Notice of Appearance ② A's Motion To Withdraw ③ A's Motion For Post-Conviction Discovery Filed		

TRUE COPY ATTEST
 CLERKS MAGISTRATE

APPROVED ABBREVIATIONS
 ARR = Arraignment PTH = Pretrial hearing DCE = Discovery compliance & jury selection BTR = Bench trial JTR = Jury trial PCH = Probable cause hearing MOT = Motion hearing SRP = Status review
 SRP = Status review of payments FAT = First appearance in jury session SEN = Sentencing CWF = Continuance-without-finding scheduled to terminate PRO = Probation scheduled to terminate
 DFTA = Defendant failed to appear & was defaulted WAR = Warrant issued WARD = Default warrant issued WR = Warrant or default warrant recalled PVH = probation revocation hearing.

TENDER OF PLEA OR ADMISSION & WAIVER OF RIGHTS		DOCKET NO.	Trial Court of Massachusetts District Court Department	
NAME OF DEFENDANT <div style="font-size: 1.2em; font-family: cursive;">Pierce Martin</div>			COURT DIVISION Quincy District Court One Dennis F. Ryan Parkway Quincy, Ma. 02169	
SECTION I CONDITIONAL TENDER OF PLEA OR ADMISSION				
Defendant tenders the following: <input type="checkbox"/> PLEA OF GUILTY <input type="checkbox"/> ADMISSION TO FACTS SUFFICIENT FOR A FINDING OF GUILTY				
COUNT NO.	DEFENDANT'S RECOMMENDATION(s) <small>(Include all fees, costs and conditions of probation)</small>	PROSECUTOR'S RECOMMENDATION(s) <small>(Required when Prosecutor disagrees with Defendant's recommendations)</small>	JUDGE'S DISPOSITION WHEN DEFENDANT'S RECOMMENDATION IS REJECTED	
1	Amend to Straight Possession Class D Guilty 1 yr Probation Abstain from drugs with random testing	Amend to Straight Possession Class D in contemplation of plea Guilty 9 months MOC		
2	Dismissed	Dismiss in contemplation of plea		
3	Guilty & 1 yr Probation	Guilty File for 1 yr		
4, 5	R/F R/F	R/F/R/F		
<p>IF ANY COUNT IS BEING PLACED ON FILE: it may be removed from the file at any time and sentence imposed (or scheduled for trial if no guilty finding has been made): (1) at the defendant's request, or (2) if a related conviction or sentence is reversed or vacated, or (3) if it is shown by a preponderance of evidence that the defendant committed a new criminal offense, or (4) if it is shown by a preponderance of evidence that:</p> <p>(Optional:) The prosecutor may not request that the charge be removed from the file after: _____ (date).</p>				
DIST. / MUN. CTS. R. CRIM. P. 4(c) REQUIRES COUNSEL TO CONSULT WITH THE PROBATION DEPARTMENT REGARDING PROBATIONARY TERMS.				
SIGNATURE OF DEFENSE COUNSEL OR PRO SE DEFENDANT X		DATE 10-17-11	SIGNATURE OF PROSECUTOR X	
THE COURT <input checked="" type="checkbox"/> ACCEPTS DEFENDANT'S TENDER <input type="checkbox"/> REJECTS DEFENDANT'S TENDER			DATE 10-17-11	
SIGNATURE OF JUDGE X				
DEFENDANT'S DECISION WHEN COURT REJECTS DEFENDANT'S RECOMMENDATION <input type="checkbox"/> Defendant WITHDRAWS the tendered plea or admission. <input type="checkbox"/> Defendant ACCEPTS Judge's disposition set forth above.				
SIGNATURE OF DEFENSE COUNSEL X		DATE	SIGNATURE OF DEFENDANT	

Commonwealth of Massachusetts

NORFOLK, SS.

QUINCY DISTRICT COURT DEPARTMENT
OF THE TRIAL COURT
COMPLAINT NO.: 1056CR006033

Commonwealth

v.

Pierce Martin,

Defendant

DEFENDANT'S MOTION TO WITHDRAW GUILTY PLEA

NOW COMES the defendant in the above captioned matter and respectfully requests pursuant to Mass. R. Crim. P. Rule 30 that this court vacate his guilty plea, and order that this matter be restored to the trial list. The defendant states as his grounds the following:

1. The defendant pled guilty to Possession of Class D Substance on October 13, 2011 and received a sentence of one year of probation.
2. Chemist Annie Dookhan, who carried out the testing on the alleged controlled substance and acted as quality control manager in the laboratory where the testing was carried out has admitted to law enforcement officials to having intentionally contaminated drug evidence to ensure positive tests, inflated drug sample weights, falsified drug analysis findings, and fraudulently altered chain of custody documents during a time period relevant to this case. As a consequence of that investigation, Ms. Dookhan has been criminally charged, the public health commissioner has resigned, several other lab

Allowed without opposition
[Signature]

10-31-12

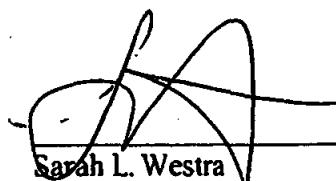
R.A.8

supervisors have been disciplined or fired, and the drug laboratory in Jamaica Plain has been completely closed down.

3. As a result of Ms. Dookhan's misconduct, the defendant's guilty plea was not knowing and voluntary, and therefore violates the Fifth and Fourteenth Amendments and Article 12.
4. As a result of the misconduct of Ms. Dookhan and/or other employees of the lab. which is imputed to the Commonwealth, the defendant was deprived of due process by the failure of the Commonwealth to provide true and accurate discovery prior to his guilty plea. in violation of the Fifth and Fourteenth Amendments and Article 12. Brady v. Maryland, 373 U.S. 83 (1963).
5. The misconduct of Ms. Dookhan constitutes newly discovered exculpatory evidence.
6. Pursuant to Superior Court Rule 61A, the defendant states that this issue has not previously been the subject of direct or collateral post-conviction review and a direct appeal has not been taken from this matter.
7. The defendant accompanies this motion with a Motion for Discovery pursuant to Mass. R. Crim. Pro. 30(c)(4) and will seek to supplement this motion at a later date when more facts are discovered about Ms. Dookhan's misconduct and that of others at the laboratory.
8. By filing this motion at this time based on the urgency of this newly-discovered evidence, the defendant does not intend to waive any other claims.
9. An affidavit of counsel is attached hereto in support of this motion and is incorporated by reference.

WHEREFORE the defendant respectfully requests that the court order a new trial in this matter; and further that the court allow the defendant to supplement this motion with additional material uncovered by further investigation of the drug lab investigation, and discovery received from the Commonwealth.

Respectfully submitted,
PierceMartin
by his attorney



Sarah L. Westra
Attorney for Defendant

Commonwealth of Massachusetts

NORFOLK, SS.

QUINCY DISTRICT COURT DEPARTMENT
OF THE TRIAL COURT
COMPLAINT NO.: 1056CR006033

Commonwealth

v.

Pierce Martin,

Defendant

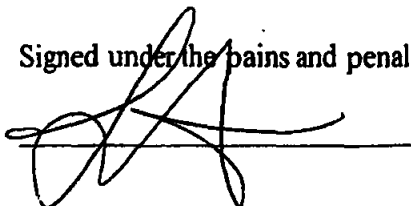
AFFIDAVIT IN SUPPORT OF DEFENDANT'S MOTION TO WITHDRAW GUILTY PLEA

Now comes defense counsel in the above-captioned case and states the following in support of his Motion to Withdraw Guilty Plea:

1. I was appointed to represent the defendant following his plea of guilty in this matter, after which he received a sentence of one year of probation.
2. Annie Dookhan was the chemist who completed the drug analysis certification in his case.
3. Annie Dookhan has been criminally charged as a result of the current investigation and the Commonwealth has publicly acknowledged in the media, as well as in open court in other cases, that Annie Dookhan has been fired has admitted to engaging in serious improprieties at the lab, including inflating drug weights, contaminating drug samples to ensure positive results, and falsifying drug analysis findings. She has broken the chain of custody for Commonwealth drug evidence in a number of pending and closed cases. Her

drug analysis certifications are rendered suspect in that she has admitted to law enforcement officials of falsifying the weight and content of samples. Analysis of drugs performed in any laboratory in which she worked is suspect, considering her position as chemist in charge of quality assurance.

Signed under the pains and penalties of perjury,

A handwritten signature in dark ink, consisting of a large, stylized capital 'A' with a horizontal line extending to the right and a loop on the left.

Date: October 1, 2012



Deval Patrick
Governor

Timothy P. Murray
Lt. Governor

Judyann Bigby, MD
Secretary

John Auerbach
Commissioner

0050093
The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
William A. Hinton State Laboratory Institute
305 South Street, Jamaica Plain, MA 02130
617-983-6622

DATE RECEIVED: 11/05/2010
DATE ANALYZED: 01/25/2011

NO. B10-12875

I hereby certify that the Vegetable Matter

Contained in 7 plastic bags

MARKED: B10-12875

Submitted by Detective WILLIAM WARD of the Quincy Police Dept.

Has been examined with the following results:

The vegetable matter was found to contain:

Marijuana, as defined in Chapter 94 C, Controlled Substance Act, Section 31, Class D.

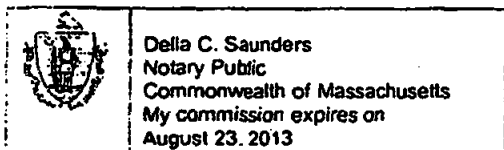
NET WEIGHT: 36.40 grams

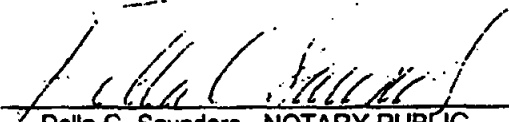
DEFENDANT: MARTIN, PIERCE

ASSISTANT ANALYST


Annie Dookhan

On this date January 27, 2011, before me, the undersigned notary public, personally appeared the above signed subscriber(s), having proved to me through Department of Public Health documentation to be the person(s) whose name(s) is/are signed on this certificate and to be (an) assistant analyst(s) of the Department of Public Health, and who swore to me that the contents of this document are truthful and accurate to the best of his/her/their knowledge and belief.




Della C. Saunders, NOTARY PUBLIC
My commission expires on August 23, 2013

Chapter 111, Section 13 of the General Laws

This certificate shall be sworn to before a Justice of the Peace or Notary Public; and the jurat shall contain a statement that the subscriber is the analyst or assistant analyst of the department. When properly executed, it shall be prima facie evidence of the composition, quality, and the net weight of the narcotic or other drug, poison, medicine, or chemical analyzed, and the court shall notice of the signature of the analyst or assistant analyst, and of the fact that he/she is such.

R.A-13

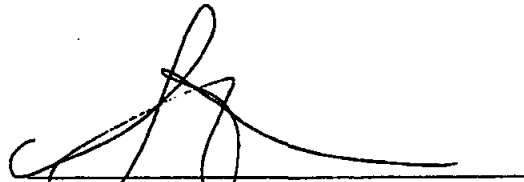
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the within Defendant's Motion to Withdraw Guilty Plea and Affidavit in Support thereof was this day served upon all parties to this action by mailing same, first class postage prepaid, to the following:

Norfolk County District Attorney's Office
45 Shawmut Avenue
Canton, MA 02021

SIGNED under the pains and penalties of perjury.

Dated: October 1, 2012


Sarah L. Westra

NORFOLK, ss.

COMMONWEALTH OF MASSACHUSETTS
DISTRICT COURT
DOCKET NO. 1056CR6033

COMMONWEALTH


V.

PIERCE MARTIN
Defendant

NOLLE PROSEQUI

The Commonwealth through the Office of the Norfolk District Attorney enters a Nolle Prosequi in the above-captioned criminal matter under the provisions of Rule 16(a) of the Massachusetts Rules of Criminal Procedure. As reason, the Commonwealth states that a Nolle Prosequi is in the interest of justice in light of the ongoing criminal investigation into the mishandling of evidence at the Department of Public Health William A. Hinton Laboratory, notwithstanding that there was sufficient evidence to support probable cause and sufficient evidence for the Commonwealth to prosecute this matter.

Respectfully submitted
For the Commonwealth
Michael W. Morrissey, District Attorney


Susanne M. O'Neil, BBO No. 567769
Assistant District Attorney
Norfolk District Attorney's Office
45 Shawmut Road
Canton, MA 02021
(781) 830-4800, ext. 339

Commonwealth of Massachusetts

NORFOLK, SS.

DISTRICT COURT DEPARTMENT
QUINCY DIVISION
COMPLAINT NO.: 1056CR6033

Commonwealth

v.

Pierce Martin,

Defendant

DEFENDANT'S MOTION FOR RETURN OF PROPERTY

NOW COMES DEFENDANT, Pierce Martin (hereinafter "Defendant"), in the above-captioned matter respectfully moves this Honorable Court to order the return to Defendant of the following property seized by the Commonwealth, its agents, servants or employees in connection with said matter:

1. \$109.00 in United States currency seized from Defendant by Quincy Police on or about October 18, 2010. See Police Report (attached).
2. \$838.83 in United States currency paid by Defendant to the Quincy District Court for probation supervision fees and victim witness fees. See receipt (attached).

As grounds therefor, Defendant hereby submits as follows:

1. Said matter, having been resolved in Defendant's favor in that the Commonwealth entered a Nolle Prosequi and the case was dismissed, entitles Defendant to the return of the foregoing property. (See *Commonwealth v. Sacco*, 401 Mass. 204 (1987), Superior Court Rule 61 and M.G.L. c.276 §3);
2. On October 18, 2010 Defendant was arrested by Quincy Police and charged with possession with intent to distribute a class D substance, drug violation near school/park, unlicensed operation of a motor vehicle, failure to stop/yield and failure to wear seat belt.

3. On October 13, 2011 Defendant plead guilty to the crime of possession of a class D substance and received a sentence of one year of probation.
4. On August 28, 2012, following a probation surrender hearing, Defendant's probation was extended until August 27, 2013. See docket sheet (attached).
5. On October 31, 2012 Defendant's Motion to Withdraw Guilty Plea was allowed. On that same date the Commonwealth entered a Nolle Prosequi in Defendant's case.

WHEREFORE, based upon the foregoing arguments, authorities and accompanying affidavit, Defendant hereby requests that this Honorable Court allow Defendant's Motion for Return of Property.

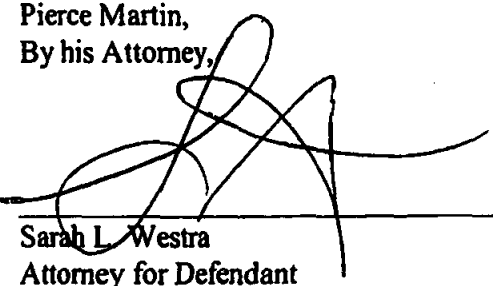
Dated: July 22, 2013

after hearing, allowed in part + denied
in part
\$100 to be returned;
motion to return
funds paid for probation
day fee is denied

Meaf. @
8-29-13

Respectfully submitted,

Pierce Martin,
By his Attorney,



Sarah L. Westra
Attorney for Defendant
The Law Office of Jeffrey K. Clifford
21 McGrath Hwy, Ste 501
Quincy, MA 02169
BBO # 683118
Phone # 617 472-2300

Commonwealth of Massachusetts

NORFOLK, SS.

DISTRICT COURT DEPARTMENT
QUINCY DIVISION
COMPLAINT NO.: 1056CR6033

Commonwealth

v.

Pierce Martin,

Defendant

AFFIDAVIT OF DEFENSE COUNSEL IN SUPPORT OF DEFENDANT'S MOTION FOR RETURN OF PROPERTY

In support of the within Defendant's Motion for Return of Property, I, Sarah L. Westra, Attorney for Defendant in the above-captioned matter, under oath and upon information and belief, do hereby state and depose as follows:

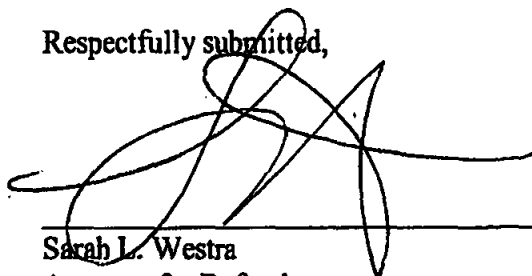
1. I am Attorney of record for Defendant in said matter;
2. I was appointed to represent Defendant as a result of the actions of Chemist Annie Dookhan, who performed the testing in Defendant's case;
3. On October 31, 2013 I appeared before the Hon. Mary Hogan Sullivan in Norfolk Superior Court at which time Defendant's Motion to Withdraw Guilty Plea was allowed;
4. That same day the Commonwealth entered a Nolle Prosequi in Defendant's case;

WHEREFORE, Defendant, through his Attorney, does hereby request that this Honorable Court allow Defendant's Motion as aforesaid.

SIGNED this date under the pains and penalties of perjury.

Dated: July 22, 2013

Respectfully submitted,

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right, positioned above a horizontal line.

Sarah L. Westra
Attorney for Defendant

County District Court

San Joaquin County, California

County No. 1

Receipt 27971

Case Number 185478-533

Description 185478-533

1/1, Piece A

Received From Martin, Pierce A

On Behalf Of Martin, Pierce A

For Best Type Record

185478-533

R.A. 21



QUINCY POLICE DEPARTMENT
QUINCY, MA

Incident Report #10050093

Narrative

Not For Public Release

Date/Time Printed: Mon Oct 18 14:53:57 EDT 2010 By: b0533

Printing Information

Date/Time Printed: Mon Oct 18 14:53:57 EDT 2010 By: b0533

While assigned to the D-783 on Monday 10/18/10 at approx. 1115 hrs., I (Off. Stephen Cleary #0533) was patrolling the area of Southern Artery when I observed MA PAN 358CP2 fail to stop for a red light at the intersection of Southern Artery and South St. I activated my lights and conducted a MV stop at 935 Southern Artery. The MV did not stop right away, the MV continued for approx. the length of two telephone polls. During this time the operator and passenger continued to look in the rear view mirror towards my direction. The operator (MARTIN, Pierce) continued to look in the rear view mirror and almost struck the curb on two separate occasions.

The MV eventually stopped and I was able to execute a MV stop. I asked MARTIN, who was not wearing his seatbelt for his license and registration, he produced no documentation. He stated he had no license. I asked if he had any ID on his person, he stated no. MARTIN's hands were shaking and I observed his nervous behavior while speaking with him. During the conversation MARTIN would pause and then answer the question with hesitation. Given the totality of circumstances; the delayed traffic stop, no ID in hand, hands shaking, and the nervous behavior, I ordered MARTIN out of the MV to conduct a pat frisk. Before frisking MARTIN I asked him if he had any weapons on his person, he stated no. I asked MARTIN if he had anything on his person I should be concerned with, he stated no. When I frisked MARTIN's front pocket in his hooded sweatshirt I felt an object I immediately knew was not a weapon. In fact, its size, shape and texture immediately felt like several bundles of marijuana. I removed the item and observed one large plastic bag with several smaller bags filled with marijuana. A search of MARTIN's left rear pocket revealed one fold of US currency in the amount of \$109.00. A further search produced no weapons nor any more narcotics.

Sgt. Flaherty and Off. O'Donnell arrived on scene. Sgt. Flaherty ran MARTIN through Quincy Dispatch, revealing MARTIN did not have a license. Sgt. Flaherty informed me that MARTIN has had multiple firearm charges.

I read MARTIN his Miranda Rights directly out of my duty book, which he stated he understood and wished to speak. He stated he was carrying over an ounce of marijuana. He stated he had no weapons on his person or in the MV.

I believe MARTIN possessed the marijuana with the intent to distribute. From the initial stop I observed MARTIN's behavior to be consistent with drug distribution. MARTIN did not initially stop and almost struck the curb on two separate occasions, I know that drug dealers will use this type of delay in an attempt to hide the narcotic. MARTIN was nervous and his hands were shaking, I know that drug dealers arrest while mere users are unlikely to fear arrest. MARTIN had a large quantity of marijuana. A. 22 person, I know that 1.75 ounces of marijuana

packaged separately is not for personal use. I know through my training and experience that it is more economical to package the marijuana in a single packet than it is to package in seven separate packet. During the search of the MV I did not observe any drug paraphernalia that would lead me to believe that MARTIN smoked marijuana. I observed no odor of burnt or unburnt marijuana in the MV.

MARTIN is being charged with the following:

POSS w/INT.
c94Cs32C DIST CLASS D SUBSQ OFF
c94Cs34H POSS CLASS D SUBSQ OFF
c94Cs32J DRUG VIOLATION NEAR SCHOOL
c90s10 UNLICENSED OPERATION
c89s9 FAIL TO STOP, RED LIGHT
c90s13A NO SEATBELT WORN

I placed MARTIN under arrest for the above charges and transported him to the station where he was booked in the usual manner by Sgt. Buonaugurio. The MV was towed by Beades and a Motor Vehicle Impoundment sheet was completed and filed. The US currency (SMF #10779) was seized pending civil forfeiture. I know that street-level drug transactions often come in denominations of \$20 bills or less. MARTIN had one fold of bills containing the following 4 \$20 bills, 2 \$10 bills and 9 \$1 bills. I believe the US currency is proceeds from narcotic transactions. An Asset Forfeiture for the US currency was completed and filed. The marijuana was seized from MARTIN and submitted into drug evidence where it will be forwarded to the MA Department of Health Laboratory for further analysis. The marijuana and US currency was turned over to Det. Barkas. MARTIN possessed with intent to distribute with in 1000 feet from Clifford Marshall School. A request for field distance in being submitted. MA Uniform Citation #M8840359 and #M8840360 for the above charges were issued in hand to MARTIN.

Respectfully Submitted,

Off. Stephen Cleary #0533

R.A. 23

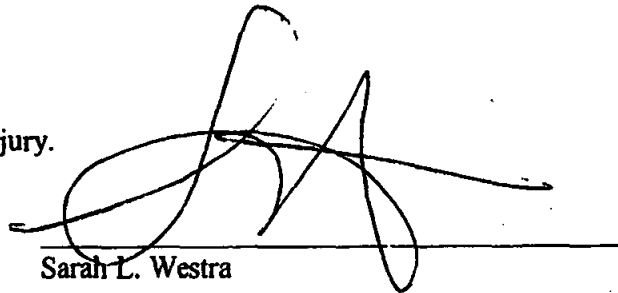
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the within Defendant's Motion for Return of Property and Affidavit in support thereof were this day served upon all parties to this action by mailing same, first class postage prepaid, to the following:

Assigned Assistant District Attorney
Norfolk County District Attorney's Office
45 Shawmut Rd. 2nd Fl.
Canton, MA 02021

SIGNED under the pains and penalties of perjury.

Dated: July 22, 2013



Sarah L. Westra

Commonwealth of Massachusetts

NORFOLK, SS.

DISTRICT COURT DEPARTMENT
QUINCY DIVISION
COMPLAINT NO.: 1056CR006033

Commonwealth of Massachusetts

v.

Pierce Martin,

Defendant

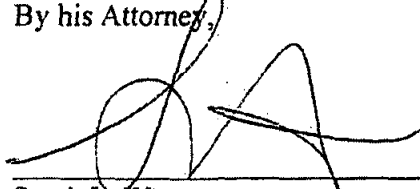
DEFENDANT'S NOTICE OF APPEAL

NOW COMES DEFENDANT, Pierce Martin (hereinafter "Defendant"), in the above-captioned matter and, pursuant to Mass. R. App. P. 3, hereby gives notice of his intent to appeal this Honorable Court's denial of his request that monies paid in probation supervision fees be returned.

Dated: September 9, 2013

Respectfully submitted,

Pierce Martin,
By his Attorney,



Sarah L. Westra
Attorney for Defendant

RECEIVED
QUINCY DISTRICT COURT
1 DENNIS WYMAN HWY.
QUINCY, MA 02169
SEP - 9 - 2013 P 1:27
A TRUE COPY ATTEST
CLERKS MAGISTRATE

R.A.25

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the within Defendant's Notice of Appeal was this day served upon all parties to this action by mailing same, first class postage prepaid, to the following:

Assigned Assistant District Attorney
Norfolk County District Attorney's Office
45 Shawmut Rd.
Canton, MA 02021

SIGNED under the pains and penalties of perjury.

Dated: September 9, 2013



Sarah L. Westra, Esq.


A TRUE COPY ATTEST

ST. CLERKS MAGISTRATE

Volume I
Pages: 1-6
Exhibits: 0

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

DISTRICT COURT DEPARTMENT
OF THE TRIAL COURT

COMMONWEALTH OF MASSACHUSETTS *
Plaintiff *

v. *

* DOCKET NUMBER 1056CR6033

PIERCE A. MARTIN *
Defendant *

HEARING
BEFORE THE HONORABLE MARK S. COVEN

APPEARANCES:

For the Plaintiff:
Norfolk County District Attorney's Office
45 Shawmut Road
Canton, Massachusetts 02021
By: James McLaughlin, Esq.

For the Defendant:
By: Sarah L. Westra, Esq.

Quincy, Massachusetts
August 23, 2013

Recording produced by digital audio recording system. Transcript
produced by Approved Court Transcriber, Donna Holmes

R.A. 27

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None - Hearing				

PROCEEDINGS

(Court called to order.)

THE CLERK: Pierce Martin.

Counsel.

MR. MCLAUGHLIN: Commonwealth.

MS. WESTRA: And, your Honor, Sarah Westra on behalf of Mr. Martin.

THE COURT: So, I understand you want to get your money back that they seized. I don't know how you're going to get your probation day fee back.

MS. WESTRA: Well --

THE COURT: It's in the general revenue now.

MS. WESTRA: I understand that, but I believe the argument is -- it's an equity argument that the supervision fees were the result of a plea that the Court determined was in violation of Mr. Martin's constitutional rights.

I -- as far as a mechanism for getting the funds back, I -- in my research, and because this is a novel issue, I -- there -- I know there is fees that can be imposed under one of -- under 94C where the Court can impose -- I have the statute cite.

The Court can impose additional fines essentially, and that the statute provides that if the conviction is subsequently reversed, that the Court then can order that the funds be returned to the defendant. In -- let me correct the statute.

1 So it's the closest thing that I could find.

2 THE COURT: Well, do you have a position on the \$109, Mr.
3 McLaughlin?

4 MR. MCLAUGHLIN: your Honor, no, the Commonwealth would
5 leave it to your Honor's discretion.

6 MS. WESTRA: It's right here. It's on top. It's Chapter 280,
7 Section 6B. It's, "Assessment against persons convicted under
8 certain sections of Chapter 94C, collection and transmittal."

9 Second paragraph provides that, "All such assessments shall
10 be collected by the Court and shall be transmitted monthly to
11 the State Treasurer. The assessment from any conviction which
12 is subsequently overturned on appeal shall be refunded by the
13 Court to the person whose conviction is overturned. Said Court
14 shall deduct such funds from assessments transmitted to the
15 State Treasurer. Assessments pursuant to this section shall be
16 in addition to any other fines or restitution imposed in any
17 disposition."

18 THE COURT: 280, 6B, is that what you said?

19 MS. WESTRA: It's -- yeah, Chapter 280, Section 6B. It's
20 fines and forfeitures.

21 THE COURT: And which part were you reading, I'm sorry?

22 MS. WESTRA: The second paragraph.

23 THE COURT: "All such assessments."

24 MS. WESTRA: Yes.

25 THE COURT: All right. The motion for return of the \$109 is

1 allowed.

2 The request to return the probation day fee is denied.

3 MS. WESTRA: Thank you.

4 THE COURT: Thank you.

5 MR. MCLAUGHLIN: Thank you, your Honor.

6 MS. WESTRA: And would Mr. Martin go to the police station
7 for that, or would it be the Court?

8 THE COURT: No, it's not the Court. We don't have the money.
9 It would be -- if the police department is still holding it,
10 it would be the police department.

11 MS. WESTRA: Okay.

12 THE COURT: Okay. So you'll have to get a certified copy of
13 that.

14 MS. WESTRA: Thank you.

15 THE COURT: Okay.

16 MR. MCLAUGHLIN: Thank you, your Honor.

17

18

19 (Adjourned)

Certificate of Accuracy

I, Donna Holmes, an Approved Court Transcriber, do hereby certify that the foregoing is a true and accurate transcript of the audio recording provided to me by the Norfolk County, Quincy District Court regarding proceedings in the above-entitled matter.

I, Donna Holmes, further certify that the foregoing is in compliance with the Administrative Office of the Trial Court Directive on Transcript Format.

I, Donna Holmes, further certify that I neither am counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further that I am not financially nor otherwise interested in the outcome of the action.

**Donna
Holmes**

Digitally signed by Donna Holmes
DN: cn=Donna Holmes, o=DH
Reporting, Inc.,
email=donna@dhreporting.com,
c=US
Date: 2014.11.05 18:41:19 -0500

Donna Holmes, Approved Court Transcriber
Notary Public, Commission Expires 6-9-17

November 5, 2014

Date

45 Oxbow Road, Canton, MA 02021

(781) 575-8000

donna@dhreporting.com

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The Commonwealth of Massachusetts
OFFICE OF COURT MANAGEMENT, Transcription Services

AUDIO ASSESSMENT FORM

For court transcribers: Complete this assessment form for each volume of transcript produced, and include it at the back of every original and copy transcript with the certificate page, word index, and CD PDF transcript.

TODAY'S DATE: November 5, 2014

TRANSCRIBER NAME: Donna Holmes

CASE NAME: Comm v Pierce A. Martin

DOCKET NUMBER: 1056CR6033

RECORDING DATE August 23 2013

TRANSCRIPT VOLUME: 1 OF 1

(circle one) **TYPE:** CD TAPE

QUALITY: EXCELLENT

GOOD

FAIR

POOR

(circle all that apply) **ISSUES** (include time stamp):

background noise

time stamp: _____

low audio

low audio at sidebar

simultaneous speech

speaking away from microphone

other: _____

time stamp: _____

COMMENTS: _____
